2004-2005
HOUSING TAX CREDIT PROGRAM
QUALIFIED ALLOCATION PLAN

November 2003

Proposed Applications Due:
The last working day of February
5:00 p.m. Central Time

South Dakota
Housing Development Authority

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THIS INFORMATION SUMMARIZING THE FEDERAL REQUIREMENTS IS PROVIDED AS A BRIEF OVERVIEW AND SHOULD NOT BE RELIED UPON FOR TAX PURPOSES. INDIVIDUAL APPLICANTS AND INVESTORS ARE SOLELY RESPONSIBLE FOR COMPLIANCE WITH SECTION 42 OF THE TAX REFORM ACT OF 1986, AS AMENDED.

Each applicant will be responsible for determining the amount of tax credit for which application is made. SDHDA strongly recommends that applicants contact a CPA and/or tax attorney prior to submitting an application.

Alternative formats of this document are available to persons with disabilities upon request.

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SOUTH DAKOTA HOUSING DEVELOPMENT AUTHORITY
2004-2005 PLAN FOR ALLOCATION OF
HOUSING TAX CREDITS

I. INTRODUCTION

This summary of the Housing Tax Credit Program (Program), which is expected to be read in its entirety, is not presented to replace Section 42 of the IRS Code of 1986, as amended, and regulations promulgated thereunder ("the Code"). It is intended to convey SDHDA's policy relative to the Code.

The Internal Revenue Code of 1986, which established the Housing Tax Credit Program as a replacement for previous federal tax incentives for investing in low income rental housing, offers a reduction in tax liability to investors in eligible low-income housing developments.

The South Dakota Housing Development Authority (SDHDA), as the credit-issuing agency, is responsible for the administration of tax credits to qualifying housing developers. This Plan provides a system for allocation of credits in 2004-2005.

Projects for which tax-exempt bond financing is proposed in conjunction with housing tax credits do not fall under the state's credit volume cap; however, such projects are subject to this Plan as defined herein. Applicants must contact SDHDA early in the process to arrange tax-exempt bond financing.

II. SDHDA PURPOSES AND GOALS

It is SDHDA's intent to use the housing tax credits to the fullest extent possible each year as a tool for the creation and maintenance of housing for low and very low income households in such a way as to further the following goals:

A. Assist in construction and preservation of decent, safe, sanitary, and affordable units in the areas of greatest demonstrated housing need in the community and in the state, ensuring distribution, both urban and rural, where and when possible, taking into consideration the historical significance of the property and area, the current housing market and the prospect for future demand.

B. In those areas where greatest need is identified, give preference to those projects which provide the greatest quality of qualified affordable units compared to the lowest amount of credit allocation while giving consideration to serving the lowest income tenants, and where appropriate, providing mixed income housing.

C. Make such units affordable to households for the longest time period possible (extended use).

D. Allocate only the amount of credit that SDHDA determines to be necessary for the financial feasibility of the project and its viability as a qualified affordable housing project throughout the credit period.

E. Assist in the provision of housing to meet the needs and priorities outlined in the State Consolidated Plan and its corresponding Update.

F. Provide opportunities to a wide variety of developers, both for profit and nonprofit, and for a variety of housing projects.

G. Encourage innovative approaches which are cost effective in providing affordable housing, including planning, design, construction (energy efficiency), and financing.

H. Give preference to those applications which show a greater degree of readiness to proceed with the development.

III. POLICIES AND PROCEDURES

Credits will be made available through a two-stage process: conditional reservation and allocation.

A. **Application Cycle(s)**. February Application Cycle: Applicants may apply (using SDHDA forms) to receive a tax credit reservation or to request an additional credit reservation. Complete applications (refer to Section VIII), including all fees, must be received at SDHDA by 5:00 p.m. Central Time, the last working day of February. Applications may be hand delivered or delivered via postal or private mailing service. Applications via facsimile or email will NOT be accepted.

If after the February application cycle, credits remain unallocated or additional credits become available, eligible applications will be accepted on a first-come, first-serve basis. Eligible applications will be accepted during the period of May through September, with submission of applications only accepted during the last working week of such months.

If SDHDA decides to hold another application and reservation cycle (instead of accepting applications on a first-come, first-serve basis), SDHDA will provide an announcement thereof. Please refer to SDHDA's web site at www.sdhda.org for availability of funds.

If the applications received exceed the tax credit availability, SDHDA will prepare a waiting list in accordance with Section III.J. SDHDA will permit each applicant on the waiting list to submit additional information to support the applicant's readiness to proceed with development of the project and to receive an award of credits without undue risk of such credits subsequently being returned to or rescinded by SDHDA.

Applicants applying for tax-exempt bond financing must use the Bond Financing Application. Applications for this funding will be accepted any time through the last working day in September.

SDHDA reserves the right, in its sole discretion, to (i) hold back a portion of the unallocated credits for later use, (ii) under certain conditions, issue an award for some portion of the next year's housing tax credits, (iii) hold another application cycle, or (iv) award tax credits for applications submitted to SDHDA under another program that need additional funds for feasibility.

B. Application Eligibility. SDHDA may reject applications that are incomplete or that contain incomplete or inaccurate information or inadequate preliminary plans.

If the applicant is requested to submit additional documentation to complete the evaluation of the application, the documentation must be received 30 days prior to the next scheduled South Dakota Housing Development Authority Board of Commissioners (Board) meeting in order to be considered at the Board meeting.

SDHDA **<u>will not process</u>** any application that SDHDA determines is **<u>not</u>**:

1. Consistent with the purposes and goals of this Plan;
2. An eligible development; or
3. Financially feasible.

This determination may be made at initial review or at any time during processing of the application.

C. Set-Asides/Limitations. The following will apply to the total credits available for allocation.

1. Federal law requires that ten percent of the total annual credit available will be set aside for projects involving nonprofit organizations, which have a 501(c)(3) or (c)(4) designation. The nonprofit organization must have as one of its exempt purposes the fostering of low-income housing and must materially participate in the ownership, development and operation of the low-income project throughout the compliance period. A nonprofit cannot be affiliated with or controlled by a for profit entity by: a) having more than a 49 percent share of common board members; or b) having more than 49 percent of its funding, directly or indirectly, from the parent entity; or c) having any other type of association which is not considered an arms-length affiliation.

   Furthermore, the nonprofit entity must own at least ten percent of all general partnership interests in the development (a ten percent interest in both the income and profit allocated to all the general partners and in all items of cash flow distributed to general partners) and receive at least ten percent of all fees paid or to be paid to all general partners. Finally, the nonprofit must not have been formed for the principal purpose of competition in the nonprofit pool.

2. SDHDA will allocate, so far as reasonably practicable, 60 percent of the total annual credits available for rehabilitation and/or acquisition and rehabilitation projects and 40 percent for new construction. However, should there be requests for less than the prescribed percentage of the funds for either activity, all funds will be awarded, so long as there are eligible and feasible applications on hand.

3 During the initial application round, no more than 25 percent of the total funds available may be awarded to any one developer unless the developer has submitted an application for properties located in at least two different communities or multiple applications for multiple properties. However, subsequent to the initial reservation cycle, developers who have previously been awarded the maximum credits under the initial round may be eligible for additional credits.

D. Development Selection Process. Once SDHDA has reviewed all applications for completeness and eligibility based on federal requirements, proposed developments will be selected for reservations based on the criteria as outlined in Parts II, V, VI and VII.

In addition to the Development Standards and Selection Criteria outlined in this Plan, each and every proposal is analyzed on a comparative basis in a variety of categories to ensure the highest value for the tax credits awarded.

SDHDA reserves the right to contact the applicants, after the application deadline, for further clarification of the application or any submission items. If there is competition for tax credits (meaning application requests exceed the availability of funds), each applicant will get equal time to respond to the request. Those applications that are considered substantially complete will be considered for funding first.

SDHDA may request additional information and perform additional project evaluation as deemed necessary and appropriate to verify project costs, feasibility and need. SDHDA reserves the right to exchange information with other state and federal allocating agencies and with other parties as deemed appropriate. By submitting an application for tax credits, the applicant is acknowledging and agreeing to this exchange of information.

When no competition exists for the housing tax credits, SDHDA reserves the right to continue working with projects which, as a result of incomplete submission or lack of readiness, would be subject to rejection if competition was present. Staff recommendations to the Board will occur when requested documentation has been received from the applicant and determination is made regarding each project. If such documentation is not received within 180 days of SDHDA's receipt of the original application, the applicant may be required to submit a new application for further consideration.

E. **Applicant Characteristics**. SDHDA must be satisfied that the owner and operator of the project are familiar with and prepared to comply with the requirements of the Program. SDHDA may reject applications from previous Program participants who have failed to demonstrate proficiency within the HTC Program or other government sponsored programs. Concurrently, SDHDA may also reject or discount applications from previous Program participants who have failed to complete their projects in accordance with their applications and/or certified plans presented to SDHDA, or who have failed to effectively utilize previously allocated tax credits or other government sponsored program resources, or who have failed to demonstrate proficiency or knowledge of the housing tax credit program. Such consideration will be made individually by SDHDA regarding the proposed property management company and each member of the development team.

HTC developments must remain in compliance with Program guidelines throughout the agreed upon use period. Those entities involved with existing projects which are determined by SDHDA to be significantly out of compliance, at the sole discretion of SDHDA, will not receive consideration for new housing tax credit projects until the issues are resolved to the satisfaction of SDHDA.

SDHDA may require a compliance review of a SDHDA approved tax credit development that has been placed in service, but for which an 8609 has not yet been issued, if the applicant and/or its general partner has submitted an application for an additional tax credit project.

Applicants who have been convicted of, enter an agreement for immunity from prosecution for, or plead guilty, including a plea of nolo contendere, to: a crime of dishonesty, moral turpitude, fraud, bribery, payment of illegal gratuities, perjury, false statement, racketeering, blackmail, extortion, falsification or destruction of records are ineligible. Applicants or members of the development team who have been debarred from any South Dakota program, other state program, or any federal program are ineligible. Applicants having an Identity of Interest with persons or entities falling into any of the above categories may not be eligible at the sole discretion of SDHDA. An attorney's opinion that the applicant is in good standing will be required in all cases.

If SDHDA learns that any principal involved with a proposed project has serious and repeated non-compliance issues at the time of application, the application will be rejected. The prior performance considered may include, but is not limited to, progress made with previous credit reservations, project compliance and payment of monitoring fees.

F. **Identity of Interest**. The applicant must disclose any and all relationships (generally based on financial interests or family ties) with others involved in the project. This disclosure is required for all parties.

G. Disclosure of Interest. The applicant must disclose the names and addresses, including corporate officials where applicable, of all parties who have a significant role in the project. These parties include, but are not limited to: accountants, architects, engineers, financial consultants, any other consultants, management agents, the general contractor, and all subcontractors whose aggregate contract fees will exceed ten percent of the cost of development (this cost will be calculated excluding the acquisition of land).

H. Determination of Credit Amount. Federal law mandates that, although a proposed development may be eligible for up to 70 percent or up to 30 percent present value credit amount, SDHDA may not allocate more credit than it determines necessary for the financial feasibility and viability of the development as a qualified affordable housing project throughout the compliance period.

SDHDA will evaluate each proposed project, taking into consideration:

1. Development costs, including developer fees;
2. All sources and uses of funds;
3. Projected income and expenses;
4. Proceeds expected to be generated from the sale of tax credits, including historic tax credits; and
5. The difference between total project costs and total available financing resources (including owner equity requirements), which is referred to as the gap. A calculation is made to determine the amount of tax credits needed by the project to fund the gap over a ten-year period, based on the estimated market value of the tax credits and the Applicable Credit Rate for the month in which the housing tax credits would be reserved.

Based on this evaluation, SDHDA will estimate the amount of credit to be reserved for each application. This determination is made solely at SDHDA's discretion and is in no way a guarantee of the feasibility of the project. Rather, it will serve as the basis for making a reservation of credits. <u>This analysis to determine credits necessary will be done at the time of application, at the time a carryover allocation is approved, and at the time the project is placed in service, provided all project costs are finalized and certified. Current Fair Market and housing tax credit rents, along with any anticipated changes in operating expenses, will be utilized at each underwriting stage. SDHDA reserves the right, in its sole discretion, to rescind or reduce previously awarded credits at any of the underwriting stages if SDHDA determines the proposed development is not financially feasible or does not need credits to be financially feasible.</u>

Federal law permits SDHDA to reserve a greater amount of credit than the legislated maximum credit percentage for projects in areas that meet the following criteria:

1. Qualified Census Tracts designated by U.S. Department of Housing and Urban Development (HUD) in which either 50 percent or more of the households have an

income of less than 60 percent of the area median gross income for such year or there is a poverty rate of at least 25 percent. The portion of a metropolitan statistical area (MSA) which may be designated for this purpose will not exceed an area having 20 percent of the population of the MSA; or

2. Difficult Development Areas designated by HUD as having high construction, land, and utility costs relative to area median income.

Although federal law permits SDHDA to reserve a greater amount of credit for projects in a Qualified Census Tract or in a Difficult Development Area, the increased credit amount is not automatic and will only be approved on projects when SDHDA determines the credit is needed for financial feasibility.

I. Reservations. Once staff has ranked applications and determined, in accordance with the Plan, allowable credit amounts for each application, staff will make recommendations to the Board Task Force for conditional reservations of credits to be considered by the full Board. It is SDHDA's intent that Board action will take place within 60 days after the application submission deadline. Each reservation will be conditioned upon receipt, within 60 days, of written certification and evidence, acceptable to SDHDA, of timely progress toward completion of the project and compliance with federal tax credit requirements. Upon receipt and approval of the required reservation documentation, SDHDA will forward to the applicant a formal reservation letter. Refer to Section VIII.B. for SDHDA Reservation Requirements.

SDHDA reserves the right to reserve and allocate credits to any project or NOT reserve credits for any project, regardless of ranking under the project selection criteria, if it determines, in its sole discretion, that a reservation for such project does not further the purposes and goals set forth in Code Section 42 or in Section II of this Plan. For purposes of this determination, the information which may be taken into account by SDHDA includes, but is not limited to, comments of officials of local governmental jurisdictions, information regarding the fact that a particular market is saturated with affordable housing projects, the likelihood that the project will comply with federal tax credit requirements in a timely manner, and the applicant's (including any related party's) prior experience and performance with South Dakota's and other states' tax credit programs and federal or other states' housing assistance programs. The prior performance considered may include, but is not limited to, progress made on previous tax credit reservations, construction of projects previously awarded tax credits, submission of monthly status reports, project compliance, and payment of monitoring fees. If SDHDA determines not to reserve credits on such basis, it will set forth the reasons for such determination.

SDHDA reserves the right to place special conditions on reservations and to reserve credits for lower ranking projects if the amount of credit available is insufficient to fund projects ranking higher.

SDHDA will make available to the public a listing of the housing tax credit applicants receiving a conditional reservation of credits. The listing will include the development name, address and contact person and will be posted on the SDHDA home page located at www.sdhda.org within 14 days of the awards being made.

SDHDA will make available to the general public a written explanation for any allocation of credits that is not made in accordance with established priorities and selection criteria of this Plan. The explanation may be obtained by request from SDHDA.

J. **Waiting List**. If demand for credits exceeds the credits available and a waiting list is developed by SDHDA, it will notify each applicant to whom credits were neither awarded nor denied. Any such applicant may then submit a written request to be maintained on the waiting list to compete for any additional credits that become available during that allocation year. Additional credits will be awarded in accordance with Section III.A.

K. **Status Reporting**. All sponsors/developers who receive a formal reservation of credits will be required to provide status reports monthly by the first day of every month, in a format prescribed by SDHDA outlining progress toward completion. Information provided will be project specific and will include, but not be limited to, such items as firm debt and/or equity financing commitments (conditioned only on receipt of credits), construction progress and costs. See Recapture of Reservations below.

L. **Recapture of Reservations**. An applicant with a reservation of credit will be subject to recapture of the reservation if the applicant is unable to provide evidence satisfactory to SDHDA in its status report of progress toward the completion of the project as agreed to in writing in the appropriate documents. Failure to submit reports on a timely basis may result in a recapture of credits.

M. **Carryover Allocations**. Federal law provides that SDHDA may give a carryover allocation to certain qualified buildings, that will not be placed in service prior to December 31 of the reservation year. This provision requires that more than ten percent of the expected basis in the project (including land) must be expended by the later of the date which is six months after the date that the reservation is made or December 31 of the reservation year. The applicant must provide evidence of ownership of the property in order to qualify for a carryover commitment. The carryover allocation agreement must be executed prior to December 31 of the reservation year. <u>For projects meeting the ten percent test by December 31 of the reservation year, the ten percent expenditure must be audited by an independent CPA no later than November 15. For all other projects, an independent CPA must audit the ten percent expenditure no later than six months after the date that the reservation was made</u>. Additional carryover requirements are given in Section VIII.C. A carryover allocation is for a specific credit amount, which may be reduced but not increased when credits are allocated at the time the project is placed in service.

Carryover allocations for bond-financed developments apply to buildings placed in service after December 31 of the year in which the bonds were issued. If the development is not complete by December 31, but the bonds have been issued and the ten percent expenditure requirement has been satisfied by such date, the development may be completed at any point within the next two years and qualify.

N. **Final Allocations**. No allocation will be made until a building or project is placed in service and the proper documentation and fees have been received by SDHDA. The placed-in-service date for housing tax credit purposes for a newly constructed building, or for rehabilitation expenditures in an existing building, is the date when the first unit in the building is certified as available for occupancy. The placed-in-service date must occur within two years after the carryover allocation of credits.

A final allocation may be requested as soon as an eligible building is placed in service and must be submitted prior to November 15 for a Form 8609 to be issued before the end of such year.

The credit amount which will be allocated is based on SDHDA's final determination of the qualified basis for the building or project and a review of the project costs as outlined in Section VIII.D.

At the time of allocation, the tax credit recipient must execute certain documents relating to commitments made to SDHDA in order to obtain points under the project selection criteria outlined in Section VII. Such commitments must be recorded as restrictive land use covenants with respect to the development.

O. **Additional Tax Credits**. A Developer who has a carryover allocation from a prior year and who has not yet been issued a Form 8609, may be eligible to apply for an increase in credits if there is an increase in development costs (in the year in which credits are initially reserved and in subsequent years) which resulted in an increase in Eligible Basis. The increase must be as a result of justified changes to the architectural plan that resulted in increased hard costs to the project, e.g., pre-approved project redesign, changes in applicable codes, and other unforeseeable events. To be considered eligible for additional credits under this provision, all change orders must be approved by SDHDA prior to initiating the change.

Projects which qualified for more credits at reservation, but did not receive a full reservation due to lack of credits or other administrative action, are also eligible to apply for additional credits in subsequent years. Requests for additional credits must be made in accordance with Section III.A.

P. **Monitoring for Compliance**. Federal law requires that state housing credit agencies provide a procedure to be used in monitoring for noncompliance with the Code and of notifying the Internal Revenue Service of such noncompliance. SDHDA is required to apply the monitoring procedure to all tax credit projects developed since the inception of the Housing Tax Credit Program. SDHDA will perform such duties in accordance with its Housing Tax Credit Compliance Manual, a copy of which is available upon request from SDHDA.

1. All tax credit recipients must submit an Annual Owner Certification, annual financial statement, quarterly occupancy reports and other pertinent documentation to SDHDA in a manner, form, and time established by SDHDA. The certifications will include, but are not limited to, the number of units set aside, tenant names, household composition and income, rents, utility allowance and any changes that may have occurred in the Eligible Basis or Applicable Fraction.

2. An on-site review of tenant files, habitability standards and/or general development appearance will be conducted in accordance with the Housing Tax Credit Compliance Manual. All tax credit recipients must maintain, as part of the official development records, tenant applications, initial leases, tenant income certifications, and third party written income verifications.

3. SDHDA will have access to all official development records, including annual financial statements and IRS reporting forms upon reasonable notification. All official development records or complete copies of such records must be maintained within the State of South Dakota and made available to SDHDA upon request.

4. To accomplish its compliance monitoring responsibilities, SDHDA will charge a fee of $50 per development and $15 per low-income unit annually for the entire extended use period. SDHDA reserves the right to adjust the annual fee to offset administrative costs.

5. SDHDA will promptly notify the IRS of any development noncompliance within its responsibility as contained in the Code. SDHDA has no jurisdiction to interpret or administer the Code, except in those instances where specific delegation has been authorized. All extended use elections, reduced rent elections and/or any other special use restriction elections made by the applicant which are made a part of the Declaration of Land Use Restrictive Covenant agreement will be monitored for compliance.

6. The owner and/or the management company must attend housing tax credit compliance training at a minimum of once every three years from the date of issuance of the Form 8609. This requirement will be incorporated into the Declaration of Land Use Restrictive Covenant agreement.

7. Any change in the ownership of a building or a partnership interest is considered a recapture event. The owner must notify SDHDA prior to any such change.

Q. Limitation on Liability. SDHDA reserves the right, in its sole discretion, to modify or waive, on a case-by-case basis for good cause, any condition of this Plan that is not mandated by the Code. Amendments to this Plan will be made in accordance with Section III.R.

SDHDA is charged with allocating only that amount of credits as are necessary to make any given development financially feasible and viable as a qualified low income housing project. This decision will be made solely at the discretion of SDHDA, and in no way represents or warrants to any applicant, investor, lender, or any other party that the development is, in fact, feasible or viable.

SDHDA's review of documents submitted in connection with this Plan is for its own purposes. In allocating credits, SDHDA makes no representations to any applicant, investor, lender or any other party regarding adherence to the Code or any other laws or regulations governing the HTC Program.

With respect to the construction of projects, SDHDA may inspect the project at any time, however; SDHDA assumes no responsibility to make regular inspections during construction and assumes no liability for construction quality or code compliance. Applicant should notify SDHDA of the scheduled inspections, including the final inspection. The standards set forth in Section V.F. are minimum standards for tax credit projects but do not imply that such minimum standards assure minimum health or safety requirements are met.

No executive, employee or agent of SDHDA or any other official of the State of South Dakota will be personally liable concerning any matters arising out of, or in relation to, the allocation of credits or the approval or administration of this Plan.

R. Amendments to the Allocation Plan. This Plan may be amended by SDHDA Board of Commissioners for any one or more of the following purposes, and at any time or from time to time, and such amendments will be fully effective and incorporated herein upon the Board's adoption of such amendments:

1. To reflect any changes, additions, deletions, interpretations, or other matters necessary to comply with Section 42 of the Code or regulations promulgated thereunder;

2. To cure any ambiguity, supply any omitted item, or cure or correct any defect or inconsistent provision in this Plan;

3. To insert such provisions clarifying matters or questions arising under this Plan as are necessary or desirable and are not contrary to or inconsistent with this Plan or Section 42 of the Code;

4. To modify identified housing needs and selection criteria reflecting those needs, based upon SDHDA's continuing assessment of such needs, provided that no such amendment will retroactively affect a reservation of credit previously made under this Plan; and

5. To facilitate the award of credits that would not otherwise be awarded.

This Plan may be amended for substantive issues at any time following public notice and public hearing. Said hearing will be held at the main offices of the South Dakota Housing Development Authority in Pierre, South Dakota. Any substantive amendments will require approval of the Board and the Governor. To the extent that anything contained in the Plan does not meet the minimum requirements of federal law or regulation, such law or regulation will take precedence over this Plan.

IV. GENERAL FEDERAL PROGRAM REQUIREMENTS

A. **Eligible Activities**. Eligible activities for credits include new construction, substantial rehabilitation or acquisition with substantial rehabilitation. Federal law requires substantial rehabilitation costs to be at least $3,000 per unit or ten percent of the original basis, whichever is greater. Where competition exists, SDHDA will give preference to projects where rehabilitation costs are at least 40 percent of the total project costs to receive nine percent credit and at least 20 percent of the total project costs to receive four percent credit.

Acquisition is an eligible activity only if substantial rehabilitation is involved; reviewed management practices demonstrate that disinvestment of the property has not occurred; the long-term needs of the project can be met; and the feasibility of serving the targeted population over an extended affordability period can be maintained. If it is determined that disinvestment has occurred, SDHDA will award credits to the project only if the property is purchased through an arms-length transaction and there is no identity of interest between (i) the owners and management responsible for the disinvestment and (ii) the applicant.

If applying for the acquisition credit, the project must not have been placed in service within the previous ten years. Exceptions to the ten-year rule are provided for projects with federally assisted mortgages or other mortgages, that are subject to prepayment provisions and for buildings acquired from failed financial institutions. Certain situations are exempt from the ten-year rule, such as:

1. A person who inherits a property through the death of another person;

2. A governmental unit or qualified nonprofit group if income from the property is exempt from federal tax;

3. A person who gains a property through foreclosure (or instrument in lieu of foreclosure) of any purchase money security interest, provided the person resells the building within 12 months after placing the building in service following foreclosure; or

4. Homeownership residences that have been owner-occupied principal residences for the prior ten-year period will not be treated as being placed in service for purposes of the ten-year holding period.

Note that although the ten-year rule does not apply, the property must still be substantially rehabilitated to claim the acquisition costs of such a property.

An analysis will be made to determine the risk of prepayment or opt out of any existing federal rental subsidy contract (e.g., HUD Section 8 contract) and therefore the risk of losing affordable housing supply. Those properties that are financially feasible are located in a market with substantiated need and indicate the greatest risk for converting to market-rate housing will be given priority for funding.

After completion of the rehabilitation indicated, all major systems (roof, windows, heating, etc.) of the property must be in like new or new condition. If any such system is not in need of repair at the time of application, sufficient reserves must be established to allow for replacement of such system if the normal life span would require replacement prior to the end of the affordability period. Consideration will be given to functional obsolescence of the property. If it is not cost effective to overcome structural problems, the property may not be eligible for financing. Modifications to allow a higher level of care to elderly residents of a property is an eligible activity if there is an identified need for such level of care and the property is financially feasible upon completion.

The adjusted basis for projects located in a Qualified Census Tract will be determined by taking into account the adjusted basis of property used throughout the taxable year in providing any community service facility. The increase in adjusted basis of any building will not exceed ten percent of the Eligible Basis of the qualified low-income housing project of which the community service facility is a part. For purposes of the preceding sentence, all community service facilities, which are part of the same qualified low-income housing project, will be treated as one facility. A community service facility is defined as any facility designed to serve primarily individuals whose income is 60 percent or less of area median income.

SDHDA will allocate credits, so far as reasonably practicable, for rehabilitation of existing housing tax credit developments that are required to be, but may not currently be in compliance with the Fair Housing Act.

B. **Project Eligibility**. A project must, for a specific period of time, have a minimum of:

1. 20 percent qualified low income units occupied by households with gross incomes at or below 50 percent of area median income; <u>or</u>
2. 40 percent qualified low-income units occupied by households with gross incomes at or below 60 percent of area median income.

Once made, the choice between the 20 percent at 50 percent formulation and the 40 percent at 60 percent formulation is irrevocable. Current maximum income limits for

South Dakota counties are listed on the SDHDA website http://www.sdhda.org/devhtc.htm. Note that there are two separate schedules: one for projects making the 40/60 election and one for projects making the 20/50 election.

Units are not eligible for the tax credit if they are occupied entirely by full-time students. Exceptions to this rule are married students filing a joint tax return; unmarried students who are Temporary Assistance for Needy Families (TANF) recipients; single parents and their children, as long as the parent and children are not dependents of another individual; and students enrolled in a job training program under the Job Training Partnership Act or a similar federal, state, or local program or receiving assistance under Title IV of the Social Security Act.

C. **Eligible Basis**. The Eligible Basis for a new building equals the total project costs minus all costs which are not allowable under Code Section 42.

The Eligible Basis for an existing building equals the sum of the lesser of the acquisition cost or the appraised value, plus additions and improvements, but only if the building has not been last placed in service or substantially improved in the preceding ten years.

Eligible Basis is reduced by federal grants, residential rental units which are above the average quality standard of the low-income units, any historic rehabilitation credits, and nonresidential rental property. Areas designated as a Qualified Census Tract or Difficult Development Area may be eligible for an increase in allowable basis.

A project receiving a below-market-rate loan under the HOME Investment Partnerships Act or the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) will not be treated as federally subsidized if 40 percent or more of the residential units in the building are designated for and occupied by persons whose income is 50 percent or less of area median gross income. Each building in the project must meet the 40 percent at 50 percent AMI test.

D. **Qualified Basis**. The Qualified Basis is the portion of a project's Eligible Basis multiplied by the Applicable Fraction. The Applicable Fraction is the lesser of:

1. The unit fraction which is the number of low-income units in a building divided by the total units; or

2. The floor space fraction which is the total floor space occupied by low-income units divided by the total floor space.

The Qualified Basis and the amount of the credit are based upon the amount of low income housing within the building. An on-site manager's unit is considered common space and must not be included in the Applicable Fraction.

E. Applicable Tax Credit Percentage. The tax credit is intended to provide, over a ten-year period, a "present value" credit of either of the following:

1. 30 percent of the project's Qualified Basis for new construction with a federal subsidy or for the acquisition costs of eligible existing buildings.

   A new building is treated as federally subsidized if there is either tax-exempt financing or financing with federal funds bearing a below-market interest rate, unless the balance of such loans is excluded from the Eligible Basis of the building.

2. 70 percent of the project's Qualified Basis in the case of new construction or substantial rehabilitation.

The IRS publishes on a monthly basis the applicable percentages (Applicable Credit Rate) to be used in calculating the actual maximum allowable annual credit amount for which the project will be eligible. The 70 percent present value credit rate of nine percent and the 30 percent present value credit rate of four percent can be used for the tax credit calculation at the time of application. The credits for reservation will be calculated by utilizing the Applicable Credit Rate effective for the month in which the Conditional Reservation and Binding Commitment Agreement (Agreement) is executed. Applicant will be given the option to execute the Agreement within the month the Board reserves the credits or the following month.

F. Annual Credit Amount. The maximum allowable credit amount is the Qualified Basis multiplied by the Applicable Credit Rate. However, the actual amount of credit awarded could be less than the maximum allowable if the analysis reveals the project would still be feasible with fewer credits. The tax credit is available each year for ten years.

G. Affordable Rents. Federal requirements state that rent on the low-income units, including utilities, cannot exceed 30 percent of qualifying monthly median income (not 30 percent of each individual household’s income, but 30 percent of 50 percent or 60 percent of median, as applicable). All charges for amenities, i.e., laundry facilities, garages and carports, outdoor electrical outlets for cars, storage sheds, cable television, etc., must be included in the maximum allowable tax credit rent if such charges are included in the Eligible Basis for tax credits. In addition, to keep the units affordable, SDHDA will require the maximum rent on 40 percent of the tax credit units to be at the lesser of the fair market rent, the actual market rent for the area, the housing tax credit rent or a percentage of the housing tax credit rent.

For purposes of applying the maximum rent limitation, the maximum “rent” includes the rent paid by the tenant including utility allowance and rent subsidies. An exception for exceeding the housing tax credit rent may be granted for USDA Rural Development 515 and HUD Section 8 properties where it has been shown that additional rents are necessary to make the project feasible and that the rent will not exceed 30 percent of the tenant's income.

Since tenants under the 515 and Section 8 programs are required to pay 30 percent of their adjusted monthly income, the maximum rents may exceed the housing tax credit rent on an individual basis, so as not to exclude an income eligible household from the property.

To calculate rent, a certain number of occupants is assumed to occupy a unit, depending on the number of bedrooms in the unit (not actual occupants). The assumed family size is one person in an efficiency and one and one-half persons per bedroom (i.e., two bedroom unit rent is 30 percent of three person qualifying income). This restriction is in effect during the entire compliance period. Note that since the qualifying rent is based on one and one-half persons per bedroom, it is possible for a tenant to pay more than 30 percent of his or her actual income. The maximum rent limits are listed on the SDHDA website http://www.sdhda.org/devhtc.htm. There are two separate schedules: one for projects making the 40/60 election and one for projects making the 20/50 election.

Utility allowances are based on HUD, USDA Rural Development, local housing authority, or utility company standards, depending on the type of development.

H. **Extended Low Income Housing Commitment**. Prior to an allocation of credits, the applicant must enter into a Declaration of Land Use Restrictive Covenant agreement, an extended use agreement, pursuant to which the applicant on behalf of itself and its successors, agrees to meet the applicable fraction of low income occupancy for an extended use period of at least 15 years beyond the initial 15-year compliance period (a total of 30 years). The Code allows for termination after the initial compliance period, contingent upon a specified sales agreement. The applicant must record the Declaration of Land Use Restrictive Covenant agreement. All extended use, reduced rent or other special use restrictions elected by the applicant and imposed on the development, which restrictions are material to the award of the credits and which may or may not give rise to points under Section VII, will be made part of the Declaration of Land Use Restrictive Covenant agreement. All mortgage liens on the property must be subject to the low income use restrictions, except in the event of foreclosure.

An election made by the applicant to extend the compliance period beyond the required 30 years bars the utilization of Section 42(H)(6)(I) of the Code until the beginning of the last year of the extended compliance period. The applicant will not be able to request SDHDA to find a buyer for the low income portion of the property until sometime after the 39th year of the compliance period.

I. **Review of Federally Assisted Developments**. In accordance with the HUD Reform Act of 1989, any project for which assistance is received in any form from HUD must comply with the Revised Subsidy Layering Guidelines (RSLGs) published in the

Federal Register, Thursday, December 15, 1994, Part III (Refer to Section VI). Projects proposing to combine HOME funds with tax credits will utilize CPD Notice 98-01. A copy of these notices will be provided by SDHDA on request.

A federal subsidy is an obligation or loan of federal funds provided directly by a federal agency or indirectly by a local or state government unit where the interest rate on the loan or obligation is less than prevailing Treasury interest rates. Assistance derived from federal grants such as HoDaG or UDAG will not be treated as a federal subsidy, but must be subtracted from the Eligible Basis. Any type of tax-exempt financing provided by state or local governments, the interest on which is exempt from federal taxation under the Code, is also considered a federal subsidy, as are USDA Rural Development Rural Rental Housing (515) Loans.

HUD Section 8 rental "certificate" or "voucher" subsidy and funds received through the Community Development Block Grant Program (CDBG) are not considered a federal subsidy.

Owners of a property receiving a federal subsidy have the option of treating the subsidy amount as if it were a federal grant and deducting the amount of the subsidy from the Eligible Basis or accepting the 30 percent credit on the Qualified Basis.

Under the Federal Home Finance Board (FHFB) Affordable Housing Program, established in 1989, Federal Home Loan Banks are able to make subsidized advances to member banks which are in turn to be used for affordable housing projects. The Treasury Department has ruled that for tax credit purposes, loans provided by the FHFB will not be considered federal loans. Thus a FHFB below-market-rate loan with an interest rate lower than the Applicable Federal Rate (AFR) will be eligible for the 70 percent tax credit percentage rate for new construction or rehabilitation expenditures rather than the 30 percent rate.

SDHDA will review those projects using USDA Rural Development Rural Rental Housing Loan funds in accordance with USDA Rural Development Instruction 1944-E Exhibit A-10. No application will be reviewed without the inclusion of a letter from the USDA Rural Development State Director inviting a complete application. It is the responsibility of the applicant to provide SDHDA with any additional information or clarification of funding sources as may be necessary. Prior to issuance of the IRS Form 8609, the applicant must provide SDHDA with USDA Rural Development Form 1944-51, "Multiple Family Housing Obligation-Fund Analysis." This form will be used in the determination of the final allocation of credits to a development.

J. **Project Eligibility**. Ineligible projects include (i) properties of four units or less which are occupied by the applicant or a relative of the applicant, unless owned by a 501(c)(3) entity, (ii) life care facilities, and (iii) trailer parks.

Any building that receives Section 8 Moderate Rehabilitation Assistance at any time during the minimum 15-year compliance period is ineligible for credits. An exception permits post-1990 credit allocations for Single Room Occupancy (SRO) projects that receive Section 8 Moderate Rehabilitation Assistance under the Stewart B. McKinney Homeless Assistance Act.

Any application involving acquisition and substantial rehabilitation of a USDA Rural Development or SDHDA financed project MUST submit a certification as to need for substantial rehabilitation of the project. The certification must include a rehabilitation inspection report and must discuss the need for replacing major systems such as roofs, heating systems and windows. This inspection must be accomplished by a representative of the appropriate agency or a person approved by that agency. The inspection report will not be accepted if completed more than 6 months prior to the application submission.

K. **Tenant Ownership Projects**. Projects involving tenant ownership must submit to SDHDA a long-term management plan which must include counseling programs for the homebuyers.

L. **Limits on Credits**. There is a limit on the amount of credit any individual may effectively use due to passive loss restrictions and alternative minimum tax provisions. Individuals should consult their tax attorneys or accountants for clarification of this regulation.

M. **Discrimination**. All housing for which credits are received must be available to all persons regardless of race, color, national origin, religion, creed, sex, disability, or familial status.

N. **Volume Limits**. Each state is limited in the amount of credits it may allocate annually. SDHDA's per capita volume limit is estimated to be $2,060,450 for 2004 and $2,091,357 for 2005.

Projects with tax-exempt bond financing, which are subject to a separate bond volume limitation, are not counted against the state volume limit. SDHDA must apply to the Governor's Office on behalf of each project proposed for tax-exempt financing to secure an allocation from the Bond Volume Limit. Where competition exists for housing tax credits, multifamily projects located in Sioux Falls and Rapid City will be directed toward bond financing to the maximum extent possible and will be considered an eligible activity under this Plan.

O. **Recapture**. Credits are subject to recapture by the Internal Revenue Service if it determines the Qualified Basis at the close of any year is less than the amount of such basis at the close of the preceding taxable year, or if the minimum number of qualified low income units is not maintained for the complete extended use time period.

V. DEVELOPMENT STANDARDS

Projects funded under this Program will be evaluated according to the standards which follow. Small projects (16 or less units), Special Needs Housing and projects developed in Difficult Development Areas may be considered eligible for variances from these standards, if justified.

Note that those projects combining credits with HUD and other government assistance must comply with the development standards adopted under the Subsidy Layering Guidelines in Section VI. Where Subsidy Layering Guidelines are more restrictive than the ones established in this section, the Subsidy Layering Guidelines will prevail.

A. Project Limitations. The total project costs for new construction may not exceed the following limits.

	Apartments	Townhomes	Single Family
0 bedroom -	$ 58,800	$ 61,300	$ 63,800
1 bedroom -	$ 67,400	$ 69,900	$ 72,400
2 bedrooms -	$ 81,900	$ 84,400	$ 86,900
3 bedrooms -	$ 94,200	$ 96,700	$ 99,200
4 bedrooms -	$107,300	$109,800	$112,300

The total project costs for rehabilitation or acquisition/rehabilitation projects may not exceed 90 percent of the above limits. However, this limitation will not be applicable for projects utilizing buildings that qualify for historic preservation.

Calculation of the total project costs must include the value of donated project costs and any costs which are a part of the project but are not eligible for tax credit financing. The total project cost must not exceed the sum of the number of corresponding units times the respective cost limit. For the purpose of the above calculation, any employee unit will be calculated as a unit and not as common space. SDHDA will annually evaluate the unit cost limits.

Projects proposed at the above cost limits must have the features of brick, energy efficiency, additional handicap-adapted units, second bathrooms (for three and four bedroom units), community rooms, townhouse style development with an accessible bathroom on the main floor, creative design features, and other amenities that justify the higher costs.

If justified, the maximums for Congregate Care and Assisted Living projects may be increased up to $5,000 above the SDHDA apartment limits.

The SDHDA limits are maximum cost limitations and are not target or average costs. As in the past, current SDHDA tax credit project comparables will be the most significant factor in approving project costs.

All expenses determined to be in excess of the unit costs maximums will not be included in Eligible Basis for issuance of Form 8609. Applicants who have previously completed tax credit projects with unit costs exceeding the specified unit cost maximums will not receive, for the following two years, points for demonstrated track record of quality experience.

In addition, the project must meet the following:

- Minimum unit square footage of 600 square feet for a one-bedroom unit, 750 square feet for a two-bedroom unit, 900 square feet for a three-bedroom unit and 1050 square feet for a four-bedroom unit. Congregate care facility requires a minimum of 550 square feet for the one-bedroom unit. Assisted living projects must be designed for single room occupancy and require a minimum of 130 square feet per single occupancy unit. Rehabilitation projects are excluded from the minimum square footage requirements. Although larger units are encouraged, SDHDA will not grant unit cost waivers for the sole purpose of accommodating larger units.

B. **Developer's Fees**. The developer of a housing tax credit project will be entitled to a developer fee not to exceed 15 percent of total development cost minus developer's fee and consultant's fee for projects of 16 units or less and not to exceed 12 percent of total development cost minus developer's fee and consultant's fee for projects of 17 units or more. For purposes of the foregoing limitations, "total development costs" do not include any costs that exceed the per unit cost limitations. Any fees determined to be developer fees in excess of the corresponding 12 or 15 percent maximum or in excess of the percentage approved at time of reservation will not be included in Eligible Basis when issuing Form 8609.

Developers may choose to defer their developer fee. The submitted pro forma must evidence project cash flow sufficient to repay the deferred developer fee within the first ten years of operation.

C. **Consultant Fees**. Consultant application processing fees will be included in the developer fee limitation and cannot exceed two percent of the total development cost. Syndication related consultant fees are not to be included in the Eligible Basis of the project. Any fees determined to be consultant fees in excess of the two percent maximum or in excess of the percentage declared on the initial application will not be included in Eligible Basis when issuing Form 8609.

D. **Builder/General Contractor's Fees**. Builder/General Contractor fees may not exceed the following limits:

Builder/General Contractor's Profit	6% of hard construction costs
Builder/General Contractor's Overhead	2% of hard construction costs
General Requirements	6% of hard construction costs

Any fees determined to be builder/general contractor's fees in excess of the corresponding maximums or in excess of the percentage declared on the initial application will not be included in Eligible Basis when issuing Form 8609.

E. **Comparative Analysis**. Notwithstanding these development standards and the selection criteria within this Plan, each proposed project is analyzed on a comparative basis in a variety of categories to ensure the highest value for the credits awarded.

F. **Property Standards**. All newly constructed properties must meet the International Building Code (2000), the National Standard Plumbing Code (1996) and the National Electrical Code Handbook (1996). These codes will be superseded if the local building official has adopted an alternative code. Rehabilitation projects should strive to meet these codes when reasonable and will replace major components when necessary.

The housing project must meet the accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and covered multifamily dwellings, as defined at 24 CFR 100.201, and must also meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act (42 U.S.C. 3601-3619). All units must be considered decent, safe, and sanitary throughout the affordability period.

Projects containing facilities that are available to the general public must meet the Americans with Disabilities Act (ADA) requirements and all projects must comply with HUD Section 504 requirements. Projects involving more than four units must include five percent of the total units or one unit minimum for individuals with mobility impairments and two percent of the total units or one unit minimum setup for individuals with sensory impairments (i.e., hearing or vision impairments). The above units may NOT be consolidated so as to provide only one unit. Roll in showers must be installed in one-half of the handicap-adapted units for persons with mobility impairments. These units may not all be in one building of a multi-building project. The architect must certify on the final working plans that these standards have been incorporated into the plans.

Should SDHDA not specify any specific requirements, such as design, it is none the less the owners responsibility to be aware of and comply with all non-discrimination provisions relating to the race, color, religion, creed, sex, disability, familial status, and national origin. This includes design requirements for construction or rehabilitation, Equal Opportunity in regard to marketing and tenant selection and reasonable accommodation and modification for those tenants covered under the Law.

G. **Site Suitability**. The proposed site must be suitable for the proposed project. If the site includes any detrimental characteristic, the applicant must provide a remediation plan and budget to make the site suitable for the project. If any detrimental site characteristics exist on or are adjacent to the site, SDHDA may reject the application. Detrimental characteristics may include but are not limited to: location within one-half mile of pipeline, storage area for hazardous or noxious materials, sewage treatment plant, or sanitary landfill; location within 500 feet of airport runway clear zone, commercial property or military operations; physical barriers; unsuitable slope or terrain; location within 1,000 feet of an historic property; or location in flood hazard area.

H. **Crime Free Multi-housing Program**. All property managers must attend the Crime Free Multi-housing Program training administered through the South Dakota Law Enforcement Officers Standards and Training Commission. SDHDA recommends a membership certification be acquired and maintained for the housing developments if it is available in the area.

I. **Replacement Reserves**. All properties must maintain a minimum replacement reserve of $300 per unit annually for the entire affordability period. In a rehabilitation project, if the major systems are not all replaced or repaired, sufficient reserves must be established to allow for replacement of such components if the normal life span would require such replacement prior to the end of the affordability period. The annual replacement reserves will be trended at three percent per year.

J. **Debt Coverage Ratio**. Pro formas submitted must reflect a debt coverage ratio of not less than 1.1 in the first year that full expenses are in effect (i.e., after tax abatements have expired) and annually thereafter for the first 15 years or the term of the first mortgage financing, whichever is greater. The project must maintain a minimum .95 debt coverage ratio for the remaining period of the extended use period. Compensating factors such as developer's experience, types of financing utilized and financial strength of the applicant/owner may cause this requirement to vary. The debt coverage ratio is the ratio of net operating income to the total annual debt service. Further, the application shall reflect that rental income, any subsidies and reserve funds are sufficient to cover the property's debt and operating expenses over the period of low-income use.

K. **Changes to Project**. The award of tax credits is based upon information provided in the application and the preliminary plans submitted with the application. Any significant change in a property, once it has been ranked and awarded credits, will jeopardize the reservation/allocation and the Board may require the credits to be returned. A significant change will mean any reduction in the number of bedrooms per unit or square footage of the units, decrease in number of total units, increase in rents, increase in overall density, or any change that, had it been in the original proposal, might have resulted in the project receiving a different ranking. Any proposed changes to the project must be pre-approved by SDHDA prior to implementation.

VI. SUBSIDY LAYERING GUIDELINES

For those projects which combine tax credits and other HUD assistance, SDHDA must perform a subsidy layering review in accordance with the Revised Subsidy Layering Guidelines (RSLGs) published in the Federal Register, Thursday, December 15, 1994, Part III. The RSLGs establish HUD's safe harbor standards, but also allow SDHDA to adopt its own standards within its Plan.

Therefore, for those projects affected by the RSLGs, and which are small projects, or projects in Difficult Development Areas, the following standards are adopted:

	Safe Harbor	Ceiling
Standard 1 - Profit and Overhead		
Builder Profit	6% construction costs	HUD processing
Builder Overhead	2% construction costs	HUD processing
General requirement	6% construction costs	HUD processing
Standard 2 - Developer Fee		
Developer fee	10% total dev. cost	15% total dev. cost
Standard 3 - Syndication Expenses		
Private Offer	10% gross proceeds	15% gross proceeds
Public Offer	15% gross proceeds	24% gross proceeds

Standard 4 - Syndication Proceeds

SDHDA will establish a base market rate expressed in cents netted per dollar of credit allocation. The Market Rate will be set for each individual project based on the variables of that project. In addition, the Market Rate will be adjusted to reflect increased value if higher than typical ownership interests are retained, as follows:

0-5% ownership:	Market Rate value
5-50% ownership:	Market Rate plus 10 cents
Over 50% ownership:	Market Rate plus 20 cents

In addition, when determining the amount of credit necessary to fill the unfunded financing gap, SDHDA must include the value of all syndication installments received. Therefore, applicants affected by this part must calculate and report the effects of compounding and discounting syndication installment payments.

VII. DEVELOPMENT SELECTION CRITERIA

Maximum Possible Points 1000

Applications must obtain a minimum of 400 points to be considered for funding. Applications that DO NOT receive this cumulative total will be returned to the applicant. Applications will be processed subject to the availability of funding.

Applications for additional credits will not be re-scored and will only be considered if they meet the criteria established in Section III.O.

A. Primary Selection Criteria.

1. Deep Income Targeting:

(Maximum 80 points if individually both selections are made)
Within either the 20/50 or the 40/60 election, a proposal which elects to set aside a minimum of 20 percent of the total tax credit units for households not exceeding 50 percent of area median income will receive 40 points.

A proposal which elects to set aside a minimum of ten percent of the total tax credit units for households not exceeding 40 percent of the area median income will receive 40 points.

Rents for these units must be set at 30 percent or less of adjusted annual incomes for households at the corresponding income levels to receive the above points.

If credits are allocated on a building basis, each building must maintain the percentage of targeted units elected above.

2. Extended Use Commitment:

Although the required affordability period is 30 years, applicants who make a commitment to extend the affordability period to 40 years will receive 80 points.

An owner electing to extend the compliance period for ten years will be restricting the property for 40 years (30-year compliance period and ten-year extended use period). An election made by the applicant to extend the compliance period beyond the required 30 years bars the utilization of Section 42(H)(6)(I) of the Code until the beginning of the last year of the extended compliance period. The applicant will not be able to request SDHDA to find a buyer for the low income portion of the property until sometime after the 39th year of the compliance period.

3. Local Housing Needs:

All applicants must submit a complete market analysis addressing the local housing needs that is no more than six months old (See Section VIII.A.1. regarding submission requirements and Exhibit 3). The applicants considered to be facing the highest overall need will receive the highest score. All other applications will be ranked against the highest scoring applicant. Each applicant will receive from zero to 150 points depending upon identified need. When determining need, SDHDA will take into consideration the need for additional housing units in the community, the need to retain the existing housing and the degree of rehabilitation necessary depending on the proposed project activity. All communities, with two or more low income housing projects under construction or in the process of rent-up (less than 90 percent occupied but the length of rent-up period will be taken into consideration) may receive zero points in this category.

4. **Qualified Census Tracts:**
Projects within Qualified Census Tracts, which contribute to a concerted community revitalization plan that is documented at the time of application, will receive 75 points. Refer to Exhibit 2.

5. **Development Characteristics:**
Points will be awarded to proposed projects based on the points as detailed in Exhibit 3. A completed copy of Exhibit 3 must be signed by the applicant and the architect. Characteristics indicated by the applicant and the architect will be verified by SDHDA staff prior to issuance of Form 8609. A maximum of 200 points may be obtained.

6. **Project Characteristics:**
Projects including the use of existing housing as part of a concerted community revitalization plan that is documented at time of application will receive ten points.

7. **Mixed Income Use:**
Developments which will consist of low income and market-rate units will be eligible for up to 40 points. Points awarded will be based on the ratio of market-rate units to total project units, according to the following scale:

10.0% - 20.0% Market Rate	10 points
20.1% - 30.0% Market Rate	20 points
30.1% - 40.0% Market Rate	30 points
40.1% - 50.0% Market Rate	40 points

8. **Financial Support from Local Sources:**
Proposals containing financing or incentives from either a local government, a private party or a foundation that assist in reducing the development costs or enhancing the project feasibility may receive up to 20 points.

9. **Applicant Characteristics:**
Proposals which include the following will be awarded ten points for each provable participation (maximum 40 points):

a. Participation by an entity with a demonstrated track record of quality experience in development or management of subsidized housing;
b. Participation by a minority- or woman-owned business enterprise*;
c. Owner equity in excess of ten percent of the total development cost, but cannot be in the form of a deferred developer fee; or
d. Other creative financial partnerships aimed at achieving greater affordability.

Applicants who have previously completed tax credit projects with unit costs exceeding the specified unit cost maximums will not receive, for the following two years, points for demonstrated track record of quality experience.

*To be considered a minority- or woman-owned business enterprise, at least 51 percent of the sponsorship must be owned by either a minority individual or a woman.

10. Tenant Ownership:
Proposals intended for eventual tenant ownership will receive ten points. Applicants must submit with their application the proposed management plan, including information on homebuyer counseling, calculation of future purchase price, and other information requested by SDHDA to evaluate the feasibility of the development.

11. Tenant Populations with Special Housing Needs:
Proposals providing verifiable services to the tenants or special accommodations for any special needs tenant population will receive up to 20 points depending upon the extent of the services and the percentage of households benefiting from the services. The services must be provided long-term. A letter of intent from the service provider detailing the services that will be available, the method of delivery and the staff necessary must accompany the application. A letter of need for housing is not adequate to obtain points in this section for the following populations:

a. Homeless
b. Physically disabled
c. Chronically mentally ill
d. Developmentally disabled
e. Frail elderly (Congregate units as defined on page 35)
f. Families with children

NOTE: SDHDA and the Department of Human Services (DHS) have entered into an agreement promoting the full integration of citizens with disabilities into individualized housing settings rather than group homes. All housing designed specifically for people with disabilities must receive prior approval from DHS. Applicants who agree to offer services to these individuals in an integrated housing setting will receive points under this section.

12. Individuals with Children:
Proposals that will be serving tenant populations of individuals with children will receive ten points.

13. **Public Housing Notification:**
A proposal which provides a written commitment to notify local public housing agencies of vacancies and give priority to households on waiting lists of those agencies will receive ten points.

14. **Efficient Use of Tax Credits and Other Federal Funds:**
A proposal will be awarded points according to the largest number of units for the fewest amount of credit and other federal dollars as follows (maximum 50 points):

Points	Tax Credits & Federal $ Per Unit
50	$0 - $999
45	$1,000 - $1,399
40	$1,400 - $1,799
35	$1,800 - $2,199
30	$2,200 - $2,599
25	$2,600 - $2,999
20	$3,000 - $3,399
15	$3,400 - $3,799
10	$3,800 - $4,199
5	$4,200 - $4,599
0	$4,600 - and above

15. **Highest Percentage of Credits Used for Project Costs:**
Projects which provide the highest percentage of the credit dollar amount to be used for project costs other than the cost of intermediaries ("soft costs") will receive a maximum of 80 points. Soft costs include but are not limited to developers', attorneys', consultants', architects', engineers', accountants' and related professional fees, housing tax credit fees, reserve accounts, permanent loan fees, etc. Builder's profit will not be included in soft costs for this calculation.

Points	% of Soft Costs
80	0.00% - 19.00%
0	19.01% - +

16. **Project Location:**
Projects located in close proximity of community services will be eligible for up to 20 points. Five points will be awarded for each item. Close proximity will be defined as within 6 city blocks, unless there is a public transportation system, easily available to the tenants, providing access to these services. Community services include but are not limited to:

- Grocery/retail store
- Hospitals/medical clinics
- Schools/senior center (as applicable)
- Special service offices

17. **Rural Housing Services (RHS) Proposals:**
Projects applying for or currently funded by Rural Housing Services will receive five points.

B. **Readiness to Proceed Criteria**.
SDHDA, at its discretion, may allow up to 100 additional points to projects which, in its opinion, most clearly demonstrate readiness to proceed (e.g., impact, need, and likelihood of completion). Such determination may include but is not limited to any of the following factors:

- Substantial community support and/or local/state/federal financial assistance;
- Completeness of application and architectural plans/working drawings for development at initial submission of application;
- Proposals submitting documentation of land purchased or owned or an executed long-term lease;
- Proposals submitting evidence of enforceable construction, interim, and permanent financing commitments for at least 50 percent of the project's total estimated construction or permanent financing needs, as applicable. Permanent financing commitments must have a fixed rate and a term of at least 15 years and disclose all conditions. Generally, an enforceable financing commitment is a written approval of a loan or grant from a lender which is subject only to considerations fully under the control of the applicant to satisfy (other than the award of tax credits). The loan commitment must contain a representation and acknowledgement from the lender that such lender has reviewed the application submitted by the applicant to SDHDA in support of the credits for the project to which such commitment relates and that such lender acknowledges that the project will be subject specifically to the 40/60 or 20/50 set-aside and extended use restriction elections made by the applicant and any other special use restriction elections made by the applicant which give rise to points under Section VII. Proposals providing evidence of application submission for permanent financing from other state, federal housing programs or Federal Home Loan Banks will also be considered under this category;
- Proposals which contain evidence of any equity commitment. The equity commitment must contain a representation and acknowledgement from the equity investor that such investor has reviewed the application submitted by the applicant to SDHDA in support of the credits for the project to which such commitment relates and that such investor acknowledges that the project will be subject specifically to the 40/60 or 20/50 set-aside and extended use restriction elections made by the applicant and any other special use restriction elections made by the applicant which give rise to points under Section VII;
- Evidence of availability of utilities at the site, as evidenced by a letter from the city or town where the project will be located, or from the applicable utility companies; and
- Overall ability to meet the housing purposes and goals identified in Section II.

VIII. SUBMISSION REQUIREMENTS

A. Application Requirements. Applications must be submitted on the SDHDA HOME/Housing Tax Credit Application Form. SDHDA may reject applications with incomplete or incorrect information or inadequate preliminary plans. <u>Incomplete applications may be returned to the applicant. Inaccurate information contained in an application may disqualify the application from consideration.</u>

All proposals for the credits, whether from the bond volume limit or the state's HTC volume cap, must comply with the requirements of this Section. A proposal for which tax-exempt financing is proposed must comply with SDCL 11-11-146 and 11-11-146.1 requirements, as applicable.

Applications for additional credits must also consist of a complete application with revised project information and the following submission items, as necessary to reflect all changes in the project.

The following items must accompany the application:

1. A comprehensive market study of the housing needs of low-income individuals in the area to be served by the project. The market study must have been completed within six months of submission by a market analyst who is a disinterested party, has experience with multifamily rental housing and is approved by SDHDA. A South Dakota licensed appraiser who is currently MAI certified and meets the above criteria may also complete the market study. The minimum includable items to be addressed in the market study are listed in Exhibit 1. (This item is not required for an application for additional credits)

2. A project narrative outlining the development characteristics (tenants being served, amenities provided, financing in place, etc.). The narrative is intended as a summary of the proposed project to assist SDHDA in reviewing the information in the application and exhibits.

3. Letter from the chief executive officer of the local governing body, evidencing approval from such body, must accompany the application. This approval will identify the number of units approved, the type of units approved and the exact location of the proposed development.

   All developers are encouraged to contact the city in which they intend to develop tax credit properties early in the development process to determine whether the city has adopted procedures and submission dates for approving projects under the HTC Program.

4. Copy of utility allowance calculation and supporting documentation from the local Public Housing Authority or utility provider.

5. Pro forma for the extended use period, using the normal yearly expected vacancy rate as projected through the analysis. The pro formas submitted must reflect a debt coverage ratio of not less than 1.1 in the first year that full expenses are in effect (i.e., after tax abatements have expired) and annually thereafter for the first 15 years or the term of the first mortgage financing, whichever is greater. The project must maintain no less than a .95 debt coverage ratio for the entire extended use period. Compensating factors such as developer's experience, types of financing utilized and financial strength of the applicant/owner may vary this requirement. Furthermore, the application must reflect that rental income, any subsidies and reserve funds are sufficient to cover the property's debt and operating expenses over the period of low-income use period. Annually, income must be trended at two percent (one and three-fourth percent for HUD Section 8 projects), expenses and replacement reserves must be trended at three percent and vacancy must be projected at seven percent. A higher vacancy rate may initially be used for an acquisition/rehabilitation project if the project is currently sustaining higher vacancy and it is not reasonable to expect the project to achieve a seven percent vacancy within the first year.

6. Calculation and supporting documentation of all annual development expenses evidencing how the applicant arrived at the submitted amounts (e.g., calculation of real estate taxes from county assessor). Applications requesting acquisition/rehabilitation or just rehabilitation credits may meet this requirement with the submission of historical financial statements.

7. Applicant information, including but not limited to, the applicants past experience with housing concerns and evidence of capacity to perform, based on other federal, state, and local programs and the ability to carry out the activities and requirements associated with this application.

8. Site control, which may be evidenced by any of the following:
    a. purchase agreement or option to purchase, signed by both the buyer and seller;
    b. warranty deed or title;
    c. long-term lease equal to or greater than the term of affordability; or
    d. contract for deed.

9. Prior to credit allocation, the applicant must provide an attorney's opinion that the applicant has ownership of the property as required and in accordance with Code Section 42.

10. Applicants are cautioned that reservation of credits are site specific, therefore any changes to site will require a reevaluation of the application and reconsideration by the Board.

11. Drawing of proposed development site plan showing the general build-up of the site including the location of all proposed buildings, streets, parking areas, service areas, playgrounds, and any other significant details of the site.

12. Typical floor plan and dimensional plan for each typical living unit.

13. Written evidence that the project site is properly zoned at the time of application. This item is not necessary for acquisition and/or rehabilitation applications.

14. Certification from the applicant that the local Public Housing Authority (PHA) has been notified of the proposed project in their service area. The certification must also give priority to households on the PHA waiting list in order to obtain points under Section VII.A.13.

15. If the applicant is a nonprofit, a description of the organization and its activities and completion of the Nonprofit Eligibility Questionnaire, Exhibit 4. The Nonprofit Eligibility Questionnaire must be completed to compete for funds in the Nonprofit Set-Aside.

16. All applications submitted must be signed by at least ONE general partner involved with the project.

17. Local area map indicating other assisted housing and proximity to services (hospitals, schools, grocery stores, special services offices), etc. Services must be indicated on the map to obtain points under Section VII.A.16.

18. Completed Exhibit 3 signed by the applicant/owner and the architect. The Exhibit 3 must be completed to obtain points under Section VII.A.5.

19. To obtain points under Section VII.A.8, written evidence of financial and local support must be provided.

20. To obtain points under Section VII.A.9, written evidence of applicant characteristics must be provided.

21. To obtain points under Section VII.A.11, a letter of intent from the service provider detailing the services that will be available must be provided. Homebuyer counseling services for a lease-purchase project will not be considered eligible for points under this category.

22. Letter of intent evidencing preliminary arrangements for construction, interim, and permanent financing. NOTE: Interim financing (bridge loan) fees will not be allowable project costs if financing is provided by an entity having an identity of interest with the developer, builder, syndicator, or applicant. Only interest costs at or below market rate will be allowed.

23. If the proposed permanent financing has repayment based on the availability of development cash flow, applicant must submit a letter from a third party tax attorney or accountant addressing validity of the loan and ability of the owner to meet repayment terms of the loan.

24. Attorney's opinion stating that to the best of his or her knowledge, the applicant is in good standing as described in Section III.E.

25. If the applicant is proposing to use USDA Rural Development Rural Rental Housing Loan funds, a copy of the letter from the USDA Rural Development State Director inviting the applicant to submit a complete application.

26. If the applicant is proposing a rehabilitation, or an acquisition and rehabilitation, of an existing property, the following additional items:
    a. Detailed description of the rehabilitation to be completed for the exterior of the building and for the interior of each apartment unit and the corresponding cost of such rehabilitation. The description of the rehabilitation must be detailed as requested or the application may not be selected for an award of credits. In addition, if there are large variances between the original application and the appraisal and physical needs assessment submitted for reservation of credits, the award of credits may be withdrawn.
    b. Three years of historical financial information. If the proposed transaction is an arms-length transaction the applicant must submit the last three years' income statement and balance sheet. If the proposed transaction is not an arms-length transaction, the applicant must submit three years' audited financial statements. SDHDA reserves the right to request additional years of financials or supporting documentation if necessary.
    c. Current (within 30 days of submission) tenant rent roll listing tenants, addresses, rent paid, subsidies received, etc.
    d. Properties with preexisting subsidy (any building substantially assisted, financed, or operated under the HUD Multifamily programs, SDHDA, or USDA Rural Development Program) must submit documentation to SDHDA of the following:
        a. Balance of mortgage amount to be assumed or prepaid.
        b. Copy of current project based rental assistance contract

27. To obtain points under Section VII.A.4., a copy of the community revitalization plan must be submitted.

28. To obtain points under Section VII.A.6., applicant must provide a copy of the community revitalization plan and evidence that the existing housing is a part of such plan.

29. To obtain points under Section VII.A.10., applicant must provide a copy of the proposed management plan including information on homebuyer counseling,

calculation of future purchase price, and other information requested by SDHDA to evaluate the feasibility of the development.

30. To obtain points under Section VII.A.12., a written statement by the applicant, stating applicant's intention to serve individuals with children must be submitted.

31. Required Application Fee. Refer to Section IX.A. <u>This fee is non-refundable.</u>

32. Any other information requested by SDHDA.

B. Reservation Requirements. Within 60 days of notification of reservation of credits, applicant must provide SDHDA with satisfactory evidence of the following:

1. Signed documentation evidencing construction, interim, and permanent financing arrangements.

2. Pro forma for the period of extended use signed by the lending institution to confirm status at reservation.

3. Required Reservation Fee. Refer to Section IX.B. This fee is **non-refundable**.

4. Information on the ownership entity, including an executed copy of the partnership agreement or articles of incorporation, and a copy of the certificate of registration from the Secretary of State in the State of South Dakota.

5. Affidavit executed by the general partners, officers, directors or corporate officers, as required by the Partnership Agreement for legal representation, stating that under penalties of perjury all facts and statements contained in all documents and exhibits submitted are true to the best of their knowledge.

6. Description of any governmental assistance or rental assistance. This includes copies of any contracts or agreements executed or any applications made for rental assistance grants for the project.

7. Executed Owner's Election Statement for Establishing Effective Date of Gross Floor Rent.

8. Final architectural and site plans.

9. Executed Owner's and Architect's Certification certifying that the development incorporates the design characteristics originally detailed in the application and that the project meets the Fair Housing and 504 Accessibility requirements.

10. If the project involves acquisition and rehabilitation of an existing property, an appraisal meeting Uniform Standards of Professional Appraisal Practice (USPAP) completed by an independent licensed appraiser and evidencing the

value of the property as is and upon completion, as well as a physical needs assessment and a complete rehabilitation breakdown by each individual unit. SDHDA must approve the appraiser and inspector. All costs for appraisal and inspection will be paid by the applicant.

11. Copy of the proposed management plan for the proposed development including a copy of the tenant lease to be utilized for the project. If the project is a lease-purchase, the management plan must include counseling programs for the homebuyers.

12. Any other information requested by SDHDA.

C. **Carryover Requirements**. In addition to meeting requirements of federal law, the owner must provide, no later than November 15 of the allocation year (except as noted below), evidence satisfactory to SDHDA of the following (if not already submitted as part of reservation requirements):

1. Attorney's opinion indicating that the applicant is the owner of the property as required by and in compliance with Code Section 42.

2. If the project is an acquisition of a USDA Rural Development or HUD property, a letter from the corresponding entity must be received documenting its approval of the transfer of property ownership, the rental assistance contract, and the outstanding debt, if applicable.

3. Executed Declaration of Land Use Restrictive Covenants, which has been recorded with the Register of Deeds in the county in which the project is located. (This document will be prepared and mailed to the owner after reservation of tax credits.)

4. Address of each building for which tax credits are issued.

5. Certified line item expenditures of MORE than ten percent of the total project costs by the owner. Cost certification must be submitted on approved SDHDA forms.

6. Audited line item expenditures of MORE than ten percent of the total project costs by an independent CPA with a statement of non-affiliation with the developer and owner. If the developer's fee is included in the carryover basis, the developer must be able to document to their CPA that the amount of the fee included has been earned, it has been paid, and it cannot exceed 20 percent of the carryover basis amount. Cost certification must be submitted on approved SDHDA forms.

7. Written certification from independent CPA, as determined by the "reasonably expected basis" regarding the federal tax credit program eligibility requirements on which the reservation is given:
    a. Eligible Basis (per building)
    b. Qualified Basis (per building)
    c. Applicable Fraction
    d. Credit Amount Reserved for Project
    e. Credit Percentage
    f. Qualified Rents by Unit Size

8. Written certification from the owner regarding the following federal tax credit program eligibility requirements:
    a. Date building is expected to be placed in service
    b. Intent to reserve applicable percentage of units for the required compliance period
    c. Intent to charge rents of no more than those allowable under the IRS Code of 1986 and IRS Revenue Procedures 94-57

9. If the development was funded under USDA Rural Development Rural Rental Housing Program, the applicant must submit USDA Form 1944-51 "Multiple Family Housing Obligation-Fund Analysis."

10. Copy of the executed syndication agreement.

11. Any other information requested by SDHDA.

A project which receives a reservation of tax credits after July 31 of a calendar year may qualify under the ten percent test, if the taxpayer expends an amount equal to at least ten percent of the reasonably expected basis in the project within six months of receiving the reservation, regardless of whether the ten percent test is met by the end of the calendar year.

D. Placed In Service. The following documents are required, no later than 90 days after the completion of 100 percent of the HTC set-aside units in the project, to confirm the placed-in-service date and to receive the final allocation of credits:

1. Certificate of Occupancy issued by the appropriate government authority or temporary Certificate of Occupancy, if development is not totally completed.

2. Address of each building for which credits are issued.

3. Certified line item expenditures of the total project costs by the owner. Final cost certification must be submitted on approved SDHDA forms.

4. Audited line item expenditures of the total project costs by an independent CPA with a statement of non-affiliation with the developer and applicant. Final cost certification must be submitted on approved SDHDA forms.

5. For rehabilitation projects, a final listing of rehabilitation completed by each unit and building must be submitted.

6. Owner's certification evidencing final amount of permanent financing and full amount of proceeds received from the syndication of credits.

7. Executed Owner’s and Architect’s Certification certifying that the development incorporates the design characteristics originally detailed in the application and that the project meets the Fair Housing and 504 Accessibility requirements.

8. Documentation evidencing satisfactory completion of a housing tax credit compliance training preferably completed by the on-site manager or the property manager.

9. Documentation evidencing the applicant’s attendance at the Crime Free Multi-Housing Program administered through the South Dakota Law Enforcement Officers Standards and Training Commission.

10. Inspection of the development by SDHDA’s Coordinator of Construction Plans and Physical Reviews must be made prior to issuance of the 8609. Applicant must notify SDHDA prior to the contractor’s scheduled final inspection of the development.

11. If applicable, the owner must obtain and provide to SDHDA, in accordance with the requirements of the Declaration of Land Use Restrictive Covenants agreement, the consent of any present or prior recorded lienholder on the development. Such consent is a condition precedent to the issuance of Form 8609 and must be evidenced by copy of a title insurance policy.

12. Tenant listing for units occupied to date. The listing must include the rents charged, initial occupancy dates, tenant names, addresses and income levels.

13. Copy of most recent and approved Housing Assistance Payment contract or USDA Rural Development budget outlining the rents and utility allowances.

14. Any other information requested by SDHDA.

15. Required Allocation Fee. Refer to Section IX.C. <u>This fee is non-refundable</u>.

IX. FEES

Each of the following fees are non-refundable.

A. Application/Underwriting. An application/underwriting fee of $500 is due with an application for reservation, or any request for SDHDA underwriting, including projects financed with bonds not issued by SDHDA.

B. Reservation. A reservation fee of three percent of the annual credit amount reserved is due within 60 days of notification from SDHDA of reservation of credits.

C. Allocation. An allocation fee of ten percent of the annual credit allocation amount less fees already paid is payable at the time of final allocation. For those projects financed with bonds not issued by SDHDA that receive an allocation of credits, an allocation fee of ten percent of the annual credit allocation is payable at the time of final allocation.

D. Monitoring. Annual fees of $50 per development and $15 per low-income unit, including all projects financed with bonds, are payable each year throughout the entire extended use period. Annual fees will be imposed after the first full year in service, which is measured from the month the last building in the project is placed in service. The Housing Tax Credit Compliance Manual is available from SDHDA.

X. DEFINITIONS

A. Assisted Living Facility. Housing units that offer assistance with activities of daily living, including eating, bathing, dressing, and personal hygiene; three meals a day; supervision of self-administration of medication; laundry service; housekeeping; 24-hour staffing; and activities. Transportation to and from doctor's appointments and personal errands, counseling services, and companion services are optional.

Under the Code, the cost of services that are required as a condition of occupancy must be included in gross rent. For this reason the cost of the meals and other services must be considered optional and must be provided for in an agreement separate from the lease. A practical alternative must exist for tenants to obtain meals other than from the dining facility.

Note: Developments in which continual or frequent nursing, medical, or psychiatric services are provided do not qualify as residential rental property for purpose of Sections 142(d) and 145(d) of the Code.

B. Community Service Facility. Any facility designed to serve primarily individuals whose income is 60 percent or less of area median income.

C. **Congregate Care Facility**. Housing units that provide a semi-independent living environment offering residential accommodations, central dining facilities (where at least one meal a day is provided seven days a week), related facilities, and supporting staff and services to persons of at least 62 years of age or with disabilities.
Under the Code, the cost of services that are required as a condition of occupancy must be included in gross rent. For this reason the cost of the meals and other services must be considered optional and must be provided for in an agreement separate from the lease. A practical alternative must exist for tenants to obtain meals other than from the dining facility.

D. **Disinvestment**. Withdrawal of capital that otherwise could have been utilized to sustain the viability of a project.

E. **Extended Use Period**. Minimum term of 15 years after the close of the 15-year compliance period (or a total of 30 years) or longer if elected by the owner, during which time restrictive covenants are recorded against the property maintaining its low-income use and other requirements as mandated by the program and those committed to by the owner.

F. **Housing for Older Persons**. Housing intended and operated for occupancy by persons age 62 and older per 24 CFR Section 100.303 or age 55 and older per 24 CFR Section 100.304.

G. **Lease/Purchase Project**. A lease-to-own housing option. See definition of Tenant Ownership Project.

H. **Qualified Census Tract.** A census tract in which either 50 percent or more of the households have an income of less than 60 percent of the area median gross income for such year or there is a poverty rate of at least 25 percent.

I. **Single Family Project.** Project consisting of individual single family dwellings or a project with one or more buildings containing four or less units per building.

J. **Small Project.** Project of 16 units or less.

K. **Tenant Ownership Project**. A housing option designed to bring home ownership within reach of low- and very low-income households while assisting local governments in addressing the need for more affordable homeownership. Residents must assume most of the property maintenance responsibilities, although a reserve fund will be established to cover major expenses. The residents sign a lease and a letter of understanding describing their opportunity to purchase the home upon expiration of the tax credit minimum rental period (15 years).

L. **Townhouse Project**. A multi-family housing project where each unit has no more than two common walls.

Exhibit 1
Market Study Requirements
for the Housing Tax Credit Program

In order to be accepted with an application, a complete comprehensive market study of the housing needs of low-income individuals in the area to be served by the project must be submitted. The market study must have been completed within six months of submission by a market analyst who is a disinterested party, has experience with multifamily rental housing, and is approved by SDHDA. A South Dakota licensed appraiser who is currently MAI certified and who meets the listed criteria, may also complete the market study. The market study must address in depth the following:

1. Review of proposed site including color photos of the site and adjoining property,

2. Review of existing community services and their proximity to the proposed development,

3. Review of existing multifamily market categorized by affordable housing, housing tax credit and market rate units, and listing the type of housing, location, number of bedrooms, number of bathrooms, size of units, condition of buildings, vacancy rates, waiting lists, amenities, utility allowances (whether included in rent or not), and rental rates,

4. Review of the total number of income eligible** individuals in the market area (include breakdown for households (both renters and owners) the next five-year period, at the 50 percent and 60 percent of area median income) and projections of the same,

5. Review of projected new multifamily developments (affordable housing*, housing tax credit and market rate) including number and type of building permits issued in the past three years,

6. Review of current population characteristics (such as total population, income levels, age breakdown and migration trends) and projection, for the next five-year period, of future changes to the population and its characteristics,

7. Review of the type of employment opportunities and entry-level wages including economic changes proposed that could potentially affect the number of jobs or wages,

8. Review of existing and projected renter- and owner-occupied households, including the total number of households, average number of persons per household, and number of households that are rent burdened (tenants paying more than 30 percent of their income for housing),

9. Review of existing housing conditions and projected rental housing demands, including the breakdown of the number, size and rent level of units necessary to fill the demands of the community, and

10. Review of meeting/correspondence with the local Public Housing Authority highlighting the utilization of Section 8 vouchers and the affordable rental housing in the corresponding effective market area.

* Affordable housing units are defined as those units, both occupied and vacant, for which the rental amount plus utility costs are at or below HUD's Fair Market Rents for each size unit in the development.

** Income eligible tenants are defined as those whose incomes are at or below the percent of median income option chosen by the applicant.

The following issues must be considered for each potential market before the development of additional units is pursued:

1. Whether the community experienced growth in recent years and is projected to continue to grow.
2. Whether there has been any significant changes in the economic arena for the area, such as major employers leaving or moving into the area or are expected to leave or move in. Note that the definition of "major" will vary by community.
3. A determination as to whether vacancies that may have existed prior to the population growth have been absorbed, or whether there are vacancies in the market area now. If there are the vacant units, they need to be evaluated to determine if they are obsolete, have deferred maintenance, have deep rental subsidies, or qualify for Section 8 Vouchers (if available).
4. Determine if the need is for housing for families, young professionals, retirees, or the elderly, and what the most suitable housing would be for the identified population; such as whether there is a need for single family homes, townhouse or condominium type housing units with lower maintenance requirements, independent apartments, congregate housing, or assisted living units. Also, determine if there are existing vacant units or structures in the community or region that could be rehabilitated or moved in to address the demand for housing in a more affordable manner than new construction.
5. A determination must be made as to whether there is a need for market rate housing or housing targeted to lower income households.

SDHDA considered these issues on a statewide basis in formulating the list of housing activities outlined in the 2004 Update to the 2003 Consolidated Plan.

Exhibit 2
Qualified Census Tracts and Difficult Development Areas

IRS Section 42(D)(5)(C) Qualified Census Tracts:

Reference: Department of Housing and Urban Development Notice
[Docket No. FR-4799-N-01] Effective December 31, 2002

Metropolitan Areas:

Rapid City	Tract 0103.00
Sioux Falls	Tract 0007.00

Nonmetropolitan Areas

Bennett County	Tracts 9406.00, 9408.00, 9410.00 and 9411.00
Buffalo County	Tract 9401.00
Charles Mix County	Tracts 9702.00 and 9703.00
Clay County	Tract 9656.00
Corson County	Tract 9405.00, 9406.00, 9407.00, 9408.00 and 9409.00
Dewey County	Tract 9409.00, 9413.00, 9414.00, 9415.00 and 9416.00
Hyde County	Tract 9401.00
Jackson County	Tract 9401.00 and 9402.00
Lyman County	Tract 9401.00
Marshall County	Tract 9401.00
Mellette County	Tract 9403.00
Roberts County	Tract 9405.00 and 9406.00
Shannon County	Tract 9403.00, 9404.00, 9405.00, 9406.00 and 9407.00
Todd County	Tract 9401.00 and 9402.00
Ziebach County	Tract 9411.00, 9412.00, 9414.00 and 9415.00

IRS Section 42(D)(5)(C) Difficult Development Areas:

Reference: Department of Housing and Urban Development Notice
[Docket No. FR-4799-N-01]

Metropolitan Areas
None

Nonmetropolitan Areas
Butte County
Lawrence County
Meade County

THIS EXHIBIT IS SUBJECT TO CHANGE BASED ON UPDATES FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Exhibit 3
Development Characteristics

*****Indicate if project will include each characteristic by placing an X in the box to the left of each applicable line item.**
<u>Applicant only eligible to receive up to 200 points</u>

Existing developments:		
	50 points	Existing developments.
New construction projects (Maximum of 10 points allowed):		
	10 points	Family projects having 24 units or less, with buildings containing no more than eight units.
	5 points	Independent Elderly project having more than 16 units, but having an elevator.
	10 points	Assisted Living projects having 15 or less units.
	10 points	Congregate project having an elevator.
Parking:		
X	**Minimum Required**	At a minimum, the parking lot will be engineered asphalt, having concrete curb and gutter where the wheels come to a stop, when parked. All parking will be located on site, having a minimum of one and one-half parking spaces for each one and/or two bedroom units, and a minimum of two parking spaces for a three or more bedroom unit. In the event the City requirement is more, that requirement will be followed. The number of handicap designated parking spaces must meet city code. A garage is not counted as a parking space.
	25 points	Concrete surfaced parking lot.
Sidewalks:		
X	**Minimum Required**	A concrete sidewalk will be provided from each entrance door to a public way. Where possible combine sidewalks. In the event the City requires additional sidewalks, that requirement will be followed.
Exterior Construction: (Maximum of 30 points allowed)		
	30 points	Entire exterior of the building is constructed of brick and/or stucco.
	10 points	Or if at least 25 percent of the exterior of the building is constructed of brick and/or stucco.
	15 points	Exterior of the building covered with permanent low maintenance siding, excluding vinyl.

Insulation:		
X	**Minimum Required**	The exterior wall construction will be a minimum of 2" x 6" with R-19 fiberglass insulation, and the ceiling of not less that than R-36 fiberglass insulation.
Windows:		
	15 points	Window constructed with a permanent exterior finish and Low-E insulated glass. Aluminum or Steel Framed windows will receive no points.
Roofing:		
	15 points	A shingled roof constructed with a minimum of a 235 lb. shingle or a single ply 60 mil rubber roof system for flat roofs or a metal roof with a minimum 26 gauge steel thickness with 70 percent fluoropolymer coating. Shingles less than 235 lb. and built-up roof systems will receive no points.
Floor Coverings:		
X	**Minimum Required**	Floor covering will consist of carpeting and/or sheet vinyl. Carpeting will have a minimum face weight of 28 oz. while sheet vinyl will have a wear surface of 15 mills or greater and have a 15 year manufacturer's warranty (Floor tile is not considered sheet vinyl).
Exterior Entrance Doors:		
X	**Minimum Required**	The exterior door will be insulated metal with glass or a 180-degree peephole and will include a separate dead bolt with one-inch throw.
	35 points	Family projects with separate unit entrances accessible directly from the outside. (Not available to Single Family Projects)
Interior Entrance Doors:		
X	**Minimum Required**	The unit entrance door will be designed as required by the UBC or IRC. The door will be equipped with dead bolt with one-inch throw and 180-degree peephole.
	10 points	Interior unit solid core doors with metal door jambs.
Community Room:		
	35 points	Elderly projects that have a community room (minimum of 15 square feet per occupant, assuming one and one-half person occupancy per unit, in addition to the square footage necessary for the kitchen area) including a fully functional kitchen.
Main Entrance Area:		
	10 points	If applicable, the main entrance area will be designed with a foyer and equipped with a security system to gain access to the common areas.

Laundry:		
X	**Minimum Required**	A common laundry room must be located within each building of a development and contain a fire window within or near the door.
	10 points	A common laundry room per each building floor or washer and dryer hook-ups in each unit.
Window Covering:		
X	**Minimum Required**	Window coverings will be provided. A window shade is not considered a window covering.
Refrigerator:		
X	**Minimum Required**	A minimum of 14 cu. ft. frost free refrigerator for elderly projects.
X	**Minimum Required**	A minimum of 18 cu. ft. frost-free refrigerator for family projects.
Special Features:		
	5 points	A building designed with a drain tile system.
	35 points	Single Family Projects that include individual exterior storage units.
X	**Minimum Required**	For projects that must comply with Section 504 of the Rehabilitation Act of 1973, a roll in shower with a seat must be installed in at least 50 percent of the units accessible to individuals with mobility impairments (but at a minimum, in at least one unit).
Unit Features:		
	10 points	Developments including unit features such as computer wiring, dishwashers, walk-in closets, washer/dryers, etc.
X	**Minimum Required**	Minimum one-half bath per floor for multi-story townhouse units with two or more bedrooms.
Heating: (Maximum of 20 points allowed)		
	10 points	Forced air or hot water system.
	10 points	Heat system is minimum 90 percent efficient
Air Conditioning:		
X	**Minimum Required**	All units must have through wall or central air conditioning.
	25 points	Projects with central air conditioning.

Signage:		
X	**Minimum Required**	The project must have permanent signage installed with the Equal Housing Opportunity logo and identification of the developer and South Dakota Housing Development Authority. This requirement may be waived by SDHDA for Single Family Projects and/or Small Projects
		Total Points

I certify that the above indicated characteristics will be incorporated into the final working drawings and that they must be provided prior to occupancy of the development.

I also certify that the housing will meet the accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and covered multifamily dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619).

____ _______________

Owner Date

____ _______________

Architect Date

Exhibit 4
Nonprofit Eligibility Questionnaire

A. Nonprofit Involvement – Points Only

Part VII, Section A, Paragraph nine of the Allocation Plan for the allocation of tax credits available under §42 of the Internal Revenue Code, as amended (the "Code") assigns points to each application for tax credits for participation of a nonprofit organization in the development of qualified low-income housing.

1. General Information.

Name of Development: ____
Name of Applicant: ____
Name of Nonprofit Entity: ____
Principal Place of Business of Nonprofit Entity: _________________________

________ 501 (c) (3)
________ 501 (c) (4)
________ exempt from taxation under 501 (a)

a. Date of legal formation of Nonprofit:___________________________________
evidenced by the following documentation (include Articles of Incorporation):
____

b. Date of IRS 501(c)(3) or 501(c)(4) determination letter: ___________________
copy attached _____Yes _____No If no, why: ____________________________
____

(Note: If the information requested in a. and b. above are not yet available because the Nonprofit is not yet formed, such information must be submitted prior to an allocation of credits.)

c. Expected life (in years) of Nonprofit:___________________________________
Charitable Purposes (must include provision of low-income housing):
____
____
____

2. Nonprofit Involvement.

a. Is the Nonprofit assured of owning an interest in the Development (either directly or through a wholly owned subsidiary) throughout the Compliance Period (as defined in §42(i)(1) of the Code)? _______Yes _______No

If yes, describe the Nonprofit's ownership interests with particularity:
____
____
____
____

b. Is the Nonprofit participating in the construction or rehabilitation, operation or management at the proposed Development? _______Yes ______No

If yes, (i) describe the nature and extent of the Nonprofit's proposed involvement in the construction or rehabilitation of the Development: ________________________________
____
____

(ii) Describe the nature and extent of the Nonprofit's involvement in the operation of the Development throughout the Extended Use Period (the entire time period of occupancy restrictions on the low-income units in the Development): _______________
____
____
____

(Note: If the Applicant is only seeking points under the Allocation Plan's ranking system for Nonprofit involvement, stop here. If Applicant wishes to compete for Credits from the Nonprofit Pool, complete Section B of this questionnaire.)

B. Application for Nonprofit Pool

Part III, Section B, of the Allocation Plan imposes several requirements for eligibility for receiving credits from the Nonprofit Pool.

Answers to the following questions will be used in the evaluation of whether or not an applicant meets such requirements (attach additional sheets as necessary to complete each question).

1. Substantial Nonprofit Ownership Interest.

The Nonprofit must have a substantial ownership interest in the Development.

a. Does the Nonprofit own an interest in the Development which constitutes not less than ten percent interest in both the income and profit allocated to all of the general partners and in all items of cashflow distributed to the general partners of the Development (or will it own such an interest prior to allocation of credits)? _______Yes _______No

b. Is the Nonprofit assured of receiving not less than ten percent of all fees paid to all of the general partners in connection with the Development? ______Yes ______No

2. Affiliation With or Control by a For-Profit Entity.

The Nonprofit may not be affiliated with or controlled by any for-profit organization.

a. Has any for-profit organization (including the Owner of the Development or any individual or entity directly or indirectly related to such Owner) appointed any directors to the governing board of the Nonprofit? ______Yes _____No If yes, explain
____
____
____

b. Does any for-profit organization have the right to make such appointments? _______Yes _______No

c. Does any for-profit organization have any other affiliation with the Nonprofit or have any other relationship with the Nonprofit in which it exercises or has the right to exercise any other type of control? ______Yes ______No If yes, explain
____
____

3. Purpose of Formation of the Nonprofit.

The Nonprofit may not be or have been formed by any individual(s) or for-profit entity for the principal purpose of being included in the Nonprofit Pool. (The answers to these questions may also be relevant to #2 above.)

a. Past experience of the Nonprofit including, if applicable, the past experience of any other nonprofit organization(s) ("Related Nonprofit(s)") of which the Nonprofit is a subsidiary or to which the Nonprofit is otherwise related (by shared directors, staff, etc.):
____
____
____

b. If you included in your answer to the previous question information concerning any Related Nonprofit, describe the date of legal formation thereof, the date of IRC 501(c)(3) or 501(c)(4) status, its expected life, its charitable purposes and its relationship to the Nonprofit: ____
____
____

Anticipated future activities of the Nonprofit: _____________________________________
____
____

d. Number of full-time staff members of the Nonprofit and, if applicable, any Related Nonprofit (please specify): ____
Describe their duties: ____
____
____

e. Number of volunteers of the Nonprofit and, if applicable, any Related Nonprofit (please specify): ____
Describe the type and extent of their activities:_________________________________
____
____
____

f. Sources and manner of funding of the Nonprofit (you must disclose all financial arrangements with any individual(s) or for-profit entity, including anyone or any entity

related, directly or indirectly, to the Owner of the Development): ______________________
____
____
____

g. List all general partners of the Owner of the Development (one must be the Nonprofit) and the relative percentages of their interests: ____________________________________
____
____
____

h. List all directors of the Nonprofit and their occupations: _________________________
____
____
____

i. Disclose any business or personal (including family) relationships that any of the staff members, directors or other principals involved in the formation or operation of the Nonprofit have, either directly or indirectly, with any persons or entities involved or to be involved in the Development on a for-profit basis including, but not limited to, the Owner of the Development, any of its for-profit general partners, employees, limited partners or any other parties directly or indirectly related to such Owner: _______________________
____
____

The undersigned Owner and Nonprofit hereby each certify that, to the best of its knowledge, all of the foregoing information is correct, complete and accurate.

______________________________	____
Date	Applicant
	By:____
	Its:____
______________________________	____
Date	Nonprofit
	By:____
	Its:____

(Note: If the Nonprofit is not yet formed at the time this questionnaire is submitted, this questionnaire must accompany the Allocation Application with the information requested in A (1) (a) and (b) and signed by the Nonprofit.).